

FCC Proceeding 07-57

MB Docket No. 07-57

DA 11-129

Public comments, electronically filed using ECFS on March 9, 2011

The Honorable Genachowski  
Chairman, Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Reply to Public Comments Submitted by the WCS Coalition in Response to  
Media Bureau's January 25, 2011 Public Notice Concerning Sirius XM Price  
Caps

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Dear Chairman Genachowski and fellow Commissioners:

As a concerned citizen and consumer following the consummated satellite radio merger between Sirius Satellite Radio Inc., and XM Satellite Radio Holdings Inc., and subsequent actions, I hereby submit these reply comments to the February 24, 2011 public comments submitted by the WCS Coalition concerning the Media Bureau's public notice regarding Sirius XM price caps. Please submit my attached reply comments into the public record.

Respectfully submitted,

Patrick Sharpless

## **REPLY TO PUBLIC COMMENTS SUBMITTED BY THE WCS COALITION IN RESPONSE TO THE MEDIA BUREAU'S JANUARY 25, 2011 PUBLIC NOTICE CONCERNING SIRIUS XM PRICE CAPS**

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### **I. INTRODUCTION**

The WCS Coalition filed a public comment on February 24, 2011 to the FCC Media Bureau's Public Notice issued on January 25, 2011 concerning Sirius XM price caps. The WCS Coalition's public comment unwittingly exposed their true motives for poaching the adjacent bandwidth to SDARS, squatting on the bandwidth for 14 years, refusing to construct mandatory buildouts as required by the relaxed substantial service requirements embedded within the license agreements, lying in wait until the sequestered SDARS bandwidth was fully deployed before executing a strategic response which just happens to employ a new technology (WIMAX) and requires the Commission to modify their technical rules for WCS operations in the 2.3GHz band from fixed terrestrial operations to allow mobile broadband services in 25MHz of the WCS band (and increasing the interference on the adjacent SDARS spectrum in the process), relying on a captured Commission to accommodate virtually every request fundamentally necessary for the WCS Coalition's ploys to succeed, and abusing the regulatory review process by filing comments littered with propaganda designed to dissuade regulators from relaxing their over-reaching methods enacted against Sirius XM, a relatively small and nimble competitor when compared to the too-big-to-fail telecommunication members of the WCS Coalition. Curiously, the largest member of the WCS Coalition (AT&T) with a market capitalization of \$165,000,000,000.00, refrained from participating in this February 24, 2011 filing for reasons that weren't fully disclosed (see footnote '1' in the WCS February 24, 2011 filing which was posted to the FCC's ECFS System on February 28, 2011, FCC Proceeding 07-57).

### **II. BACKGROUND**

The Omnibus Consolidated Appropriations Act of 1996 reduced the SDARS bandwidth from 50MHz to 25MHz, and reallocated the extricated 25MHz from SDARS for other uses; most, if not all, to WCS allocations. The Commission granted two SDARS licenses on April 2, 1997 and generated a combined fee of \$173,234,888.00. The WCS auction began two weeks after the SDARS auction and the Commission granted 126 WCS licenses on July 21, 1997; fees generated from the WCS auctions totaled a paltry \$13,638,940.00. Satellite radio with two licenses generating \$173 million in fees was obligated to serve all of CONUS within six years, while WCS and their 126 licensees generating \$13 million in fees were required to provide substantial service within their licensed area within

10 years. If either SDARS or WCS failed to meet their construction requirements, license provisions required automatic license forfeiture. Within five years, satellite radio was in service nationwide, while WCS Coalition spectrum remains largely fallow today, fourteen years after licensing.

The WCS spectrum was provided flexible buildout requirements and a substantial service provision designed to promote efficient use of the spectrum, encourage the provisions of service to rural, remote and insular areas, and prevent the warehousing of spectrum. These construction requirements adopted by the Commission were required pursuant to section 309(j) of the Communications Act of 1934, as amended, which requires the Commission to include “safeguards to protect the public interest in the use of the spectrum” and performance requirements “to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services.” 47 U.S.C. §§ 309(j)(3), 309(j)(B).

On March 2, 2006 (almost nine years into the 10 year WCS buildout deadline), the WCS Coalition filed a request seeking either a three-year extension of the July 21, 2007 construction deadline, or a three-year extension from the date the Commission released an order adopting final rules for the SDARS terrestrial repeaters. Because the Commission arbitrarily decided WCS demonstrated that they face factors beyond their control that have limited their options in providing service, their request to extend construction deadlines was granted until July 21, 2010. The Commission noted that the construction deadline extension granted at that time was intended to give WCS licensees additional flexibility to develop equipment and to deploy services based on opportunities available to them in the near future (a three-year extension in 2006 and still no substantial buildout in 2011).

On May 20, 2010 (two months before the extended 13 year WCS buildout deadline) the Commission issued the WT Docket 07-293 Report and Order and Second Report and Order. This order extended yet again the WCS buildout requirement (from 13 years to 16+ years), allowing WCS licensees requiring reliable signal coverage to 40% of a license area’s population within 42 months, and 75% of a license area’s population within 72 months.

The Commission admitted in WT Docket 07-293 Report and Order that “the 2.5 MHz guard bands and the limits on WCS customer premises equipment and mobile and portable devices’ power, OOB, and duty cycle” that they adopted, along with the “signal attenuation that is attendant with the propagation of a WCS signal through the walls of a structure, will be sufficient to prevent harmful interference to *in-home SDARS receivers*”, yet the Commission failed to adequately explain to satellite radio consumers how the WCS/SDARS

compromise plan would affect mobile SDARS listeners as the WCS Coalition implements their Commission approved sixteen-plus year buildout of the new WIMAX technology (the WCS Coalition's *hail-mary* mobile broadband technology which is known to cause greater interference in the SDARS spectrum). While today's Commission boasts their compromise plan will allow satisfactory coexistence for SDARS and WCS in the S-band and essentially eliminate SDARS interference, Sirius XM has already started benchmarking satellite radio service across the country to assess the degree of service degradation resulting from the new WCS operations going forward (see the February 4, 2011 Ex Parte filing from Michal A. Lewis, Engineering Consultant, WT Docket 07-293; IB Docket 95-91).

III. THE WCS COALITION'S COMMENTS ON SIRIUS XM PRICE CAPS ARE FALSE AND MISLEADING, RAISING THE QUESTION: WHY WOULD A SATELLITE RADIO COMPETITOR MISLEAD THE COMMISSION INTO BELIEVING IT'S OK TO CONTINUE IMPOSING PRICE CAPS ON A COMPETITOR?

### **The Commission Is Violating The Public Interest**

For far too long the Commission has bantered about with incumbent licensees and too-big-to-fail telecommunication companies, aligning themselves against new entrants who pose a competitive threat to legacy, status quo, incumbent licensees. These legacy providers are afraid of new entrants because of the competitive threat they pose, and often seek illegitimate regulatory protection from unencumbered competition. It's an ugly reality consumers aren't willing to tolerate anymore and Commission leadership refuses to fix. This is precisely why the United States is in financial and economic despair, because corrupt politicians, captured regulators and rogue corporations form iron triangles and continue abusing the regulatory review process to advance unjustified policy objectives that extract value for themselves, at the expense of consumers and shareholders who, together with relatively new and competitive companies, bring exciting products and services to market. Unfortunately, these consumers and shareholders of target companies are ultimately the ones who subsidize the unjustified actions of the iron triangle participants; this is a violation of the public interest and needs to stop.

### **Voluntary Commitments Made Under Duress, Aren't Voluntary**

The WCS Coalition is correct: "The history of the price cap now under consideration is simple and straightforward." The simple and straightforward history of the Sirius XM price cap is the Commission held XM, Sirius and their respective shareholders hostage to abusive Commission practices until commitments that never should have been surrendered in the first place were 'voluntarily' committed to by the companies. Purported voluntary commitments made under duress hardly constitute fair, open, efficient and transparent FCC

activities. Nor do these 'voluntary' commitments made under duress legitimize the WCS Coalition's comments which rely on the Commission's language in the final order allowing a provision for possible extension or modification of these price caps (two legs of the iron triangle at work while Congress, who is responsible for overseeing Commission activity, remains silent on the issue). When Sirius and XM consented to these 'voluntary' price cap commitments, they agreed to price caps for three years. It was the Commission who modified the final order to expand the scope of the three-year price cap commitment to include the ability for the Commission to modify or extend the price cap beyond three years; this provision was never consented to by the companies and demonstrates the Commission's unconscionable actions designed to enrich sophisticated financial institutions and why the WCS Coalition is aiding the Commission in accomplishing this objective.

### **The WCS Coalition Is Like The Commission's Sleeper Cell**

And now the WCS Coalition, like clockwork, rises in opposition to lifting the Sirius XM price caps, which were only agreed to for a period of three years. It's as if the Commission conditioned the merger approval on the ability to modify or extend the price cap beyond three years because they knew in advance they would call on the WCS Coalition to oppose lifting the price cap when the time was appropriate.

After all the unjustifiable rulings awarded the WCS Coalition—allowing spectrum to be auctioned with one set of conditions (the pretext for the public's airwaves only fetching \$13 million), then modifying those conditions to make the spectrum more valuable to WCS and more harmful to SDARS which is now sequestered by WCS spectrum, failure to automatically revoke WCS licenses after buildout requirements were not properly satisfied, extending the flexible 10 year deadline for buildout compliance, modifying the rules to allow a newer technology which causes greater interference in adjacent bands, and then extending the 13 year deadline again to over 16 years—it's no wonder the WCS Coalition is rising in opposition to fulfill the Commission's expectations.

Iron triangles are more effective when quid pro quo agreements are used to orchestrate malfeasance. There is a reason why defense contractor AT&T didn't participate in this filing; what was it?

### **Neither The WCS Coalition, Nor The Commission Are Competent Enough To Properly Interpret The Horizontal Merger Guidelines**

While the WCS Coalition advances the erroneous assertion the Commission found that there was insufficient evidence to support satellite radio's claim that a variety of audio service offerings compete with SDARS that would discipline the combined company from exercising monopoly power over pricing, they fail to properly indicate where the Commission actually made this assertion. Sadly for

the WCS Coalition, the Commission never asserted what the WCS Coalition erroneously claims (if the Commission doesn't stop the WCS Coalition from abusing the regulatory review process by making false and misleading filings, its difficult to imagine there is anyone that will). The WCS Coalition did however provide a citation in footnote '4' of their comments; this footnote referenced the Commission's findings in the final order approving the satellite radio merger:

While there is other evidence and data in the record that shed some light on the relative substitutability of various audio entertainment services, as well as evidence concerning the product characteristics and prices of the various services that might be included in the relevant product market, this evidence is insufficient in this case for us to delineate the boundaries of the relevant product market with any precision or confidence. Most significantly, it is insufficient for us to quantitatively estimate whether and by how much prices might rise or fall if we were to approve this transaction without a voluntary commitment by Applicants not to raise prices.

The Commission never said there was insufficient evidence to support satellite radio's claim that a variety of audio service offerings compete with SDARS that would discipline the combined company from exercising monopoly power over pricing, as the WCS Coalition wrongly asserts. Instead, the Commission (which made their own erroneous claims on the subject of voluntary commitments in the Opinion and Order and Report and Order) admitted what everyone already knows: consumers determine prices in free markets, not bureaucrats; and even if the Commission attempted to predetermine what satellite radio subscription prices would eventually be, it didn't matter to the Commission because they were unconcerned with the DOJ's findings that satellite radio consolidation wasn't anticompetitive.

### **The Commission Does More Harm To Free Markets Than Good**

The Commission's original interest when approving the satellite radio merger was providing artificial enrichment to sophisticated financial institutions at great expense to Sirius XM and their investors. The primary method employed by the Commission to ensure sophisticated financial institutions would be artificially enriched was to cause price caps to be implemented so the company's subscription revenues would be constrained. The Commission was concerned that if Sirius XM increased their subscription fees, they could accelerate debt repayment obligations and harness savings in meaningful ways, thereby lowering the cost of existing debt; this would lower the revenue for the banks financing the existing debt, and the Commission didn't want this to happen. This is precisely

why we have competition and free markets in the United States—so investors and consumers will benefit from market efficiencies that regulators are unable to achieve with bureaucratic mandates designed to enrich sophisticated financial institutions.

Notwithstanding the free-market principles this country relies upon for our markets to work efficiently, the Commission violates their Congressional mandates when they circumvent these principles and cause harm to investors and consumers by imposing unjustified price caps that artificially enrich sophisticated financial institutions financing existing debt. Price caps prevent Sirius XM from raising subscription revenue, accelerating the repayment of debt obligations and thereby forcing the company to pay higher interest for existing debt; let alone the undesirable impact this has on product improvements and service enhancements that greatly benefit the consumer. These higher debt obligations obfuscate the company's ability to harness the savings in meaningful ways to attract further investment at lower cost and use the savings to make future product improvements and service enhancements. These consequences are purposefully orchestrated by the Commission, they're bad public policy and they violate the public interest. How will our markets operate if the Commission is going to interfere with the free-market principles that enable our markets to work efficiently?

Further, regulators will always struggle to estimate whether and by how much prices might rise or fall following approval of *any* transaction. Just because the Commission acknowledged they didn't know how free markets would respond to a consolidated satellite radio merger does not validate the erroneous claims made by the WCS Coalition who now deceptively attempts to mislead the Commission into believing the price caps were imposed because of anticompetitive concerns. In fact, it would be extremely difficult for the Commission to delineate the boundaries of *any* relevant product market with *any* precision or confidence; most significantly, the Commission would find it virtually impossible to quantitatively estimate whether and by how much prices might rise or fall when they approve *any* transaction. These revelations hardly constitute a legitimate reason to impose price caps, let alone hold a company hostage until they 'voluntarily' commit to surrendering a three-year price cap.

### **Bandwidth Squatters Are In No Position to Argue Price Caps for Competitors**

And now the WCS Coalition argues continuing the price cap scheme is necessary until the WCS Coalition is successful launching their service? A service the WCS Coalition had the opportunity to launch for 14 years now, but squandered every opportunity to do so? And instead of the Commission enforcing the license forfeiture requirements when the WCS Coalition failed to satisfy the flexible buildout requirements outlined in their license agreement, the

captured Commission modifies the WCS license provisions to include mobile broadband technology which causes greater interference across adjacent boundaries on both ends of the SDARS spectrum? Good thing the budget crisis and economic collapse preclude the DOJ from taking action against those at the Commission responsible for creating this regulatory fiasco, huh? And what about Congress; are they not concerned with the Commission's anti-capitalist activities involving the imposition of price caps? Or are they just fulfilling their role in the iron triangle?

The WCS Coalition's erroneous and duplicitous claims are intoxicating to anyone predisposed to believing the WCS Coalition's nonsense. Federal regulators have a duty to make decisions without being improperly influenced by one competitor to make unjust decisions about another competitor's business operations. And even more importantly, the Commission should never be complicit to third party manipulation which seeks to cause financial harm to another company and their investors, no matter if the Commission has quid pro quo agreements with the WCS Coalition or not. If the Commission insists on being complicit to this sort of improper influence, the public trust will continue eroding and Congress will ultimately be forced to intervene before the people do. The last thing the world needs right now is for the United States to follow in the footsteps of Libya because the Commission doesn't understand their Congressional mandates and insists upon violating the public interest by imposing price caps on Sirius XM in order to protect the WCS Coalition from unencumbered satellite radio competition.

**Wireless Delivery Of Internet-Based Services Already Exists; The WCS Coalition Should Blame Themselves, Not Sirius XM**

The WCS Coalition asserts they certainly believe that "if sufficient mobile broadband capacity is available to support the wireless delivery of Internet-based services to automobiles, those services will be perceived as competitive by consumers and Sirius XM's ability to increase prices will be disciplined." Meanwhile, market realities demonstrate that mobile broadband capacity is available today to support the wireless delivery of Internet-based services to automobiles, its just that the WCS Coalition didn't have the vision or foresight to develop their infrastructure to exploit those opportunities like other market participants did—even after the Commission handed the WCS Coalition their bandwidth for a mere \$13 million dollars fourteen years ago. Now the WCS Coalition seeks more state sponsored protections from unencumbered satellite radio competition in the form of continuing price caps imposed upon their competitor.

Another deficiency in the WCS Coalition's argument that the Commission should extend the price cap on Sirius XM subscription fees until the WCS Coalition decides to honor their buildout requirements, is how the WCS Coalition conflates

'consumer perception' with 'market reality'. The WCS Coalition wants the Commission to believe Sirius XM's ability to increase prices won't be disciplined unless and until the WCS Coalition decides they want to buildout their system and provide mobile broadband capacity to support the wireless delivery of Internet-based services to automobiles. In reality, the market already provides the very services the WCS Coalition now seeks to deploy. In effect what the WCS Coalition has done is failed to timely execute an effective business plan, thereby missing market opportunities they could have exploited had they not warehoused their spectrum for the last fourteen years.

And now the WCS Coalition wants the Commission to punish competitors who delivered consumer driven products and services that satisfied the public interest because those competitors (Sirius XM) timely executed an effective business plan, and consumers (over 20 million) are rewarding the company by subscribing to their service. The market already disciplines Sirius XM subscription prices with competitor products and services from those companies who didn't warehouse spectrum. Those are the companies who deployed their business plans and are in the hunt. The Commission shouldn't reward spectrum squatters by punishing competitors who invest billions in infrastructure to provide consumers with products and services the market demands. Doing so is inconsistent with sound telecommunication policy.

### **The WCS Coalition Hamstrings Their Own Arguments**

It is most instructive to contemplate the following language from the WCS Coalition's filing which begs the Commission to continue imposing price caps on Sirius XM until the WCS Coalition gets there service up and running:

A consumer will only consider Internet-based services as a competitive alternative to Sirius XM if he or she consistently can receive those Internet-based services without disruption (either due to a lack of bandwidth, RF interference, or coverage gaps). As the Commission now considers retention of the Sirius XM price cap, it cannot forget that America is in the midst of a spectrum crisis, with the demand for mobile wireless bandwidth outstripping supply.

By extension, of course, a consumer will only consider satellite radio service as a competitive alternative to other forms of audio entertainment if he or she consistently can receive satellite radio service without disruption. Now look at the record and see what the WCS Coalition has done. The WCS Coalition was the fortuitous beneficiary of Congress' Omnibus Consolidated Appropriations Act of 1996 (as well as the recently adopted National Broadband Plan), which reduced the SDARS bandwidth from 50MHz to 25MHz and opened the door for

more bandwidth to be auctioned at deep discounts because of its proximity to SDARS and propensity to cause out of band emissions.

Curiously, WCS blocks C and D surround satellite radio—C block on one end, and D block on the other; creating the opportunity for interference, not from just one side, but both. Forget the anti-warehousing clauses in the Communications Act—the Commission doesn't enforce those against the WCS Coalition. WCS buildout requirements? Flexible indeed, but no need to worry about those either, the Commission's complicity extends them whenever the WCS Coalition requests they do so. Public interest? Not the Commission's concern, obviously. WCS radio frequency interference? The Commission asserts the interference will not be a problem inside the home and largely ignores what the problems will be in the automobile. New WIMAX technology? The Commission is OK with modifying the transmission and interference rules for WCS and ignoring the impacts on SDARS spectrum even though the satellite radio companies expeditiously satisfied their inflexible infrastructure buildout requirements while the WCS Coalition warehoused their spectrum for 14 years in violation of the license agreements and the Communication Act.

Contrary to what the WCS Coalition claims, it is the WCS Coalition that has sought at every turn to hamstringing satellite radio, which is hardly surprising with the WCS Coalition's market power, resources and access to over 700MHz of bandwidth, not to mention a captured regulator in their pocket. And now the WCS Coalition has the audacity to complain to the Commission that it is satellite radio with 25MHz of spectrum that hampers the WCS Coalition; kettle, meet pot.

### **We Have A Spectrum Crisis Because Of Bandwidth Squatters Like The WCS Coalition**

As the WCS Coalition properly points out, "America is in the midst of a spectrum crisis." And why is America in the midst of a spectrum crisis? One reason is because the WCS Coalition squats on their bandwidth allocation; they participate in bandwidth auctions then warehouse their spectrum licenses until the 'right' business opportunity presents itself. When no 'right' business opportunity presents itself, the WCS Coalition complains to the Commission how their hands are tied, their ability to buildout infrastructure is determined by circumstances beyond their control, and they need further exemptions from complying with their obligations.

Often these squatters consider the 'right' business opportunity one that causes harm to competitors—seeking spectrum allocation rule changes, buildout requirement extensions, deployment technologies that increase out of band emissions and harmful interference to adjacent bandwidth belonging to competitors. It's easy to do if you are part of an iron triangle with a corrupt

Congress and a captured Commission. At least consumers, shareholders and taxpayers are now learning who their true enemies are and why they can't trust regulators to protect their interests in safeguarding the public's airwaves.

The public supports satellite radio because satellite radio is a friend to the consumer. Fair markets reward responsible companies like Sirius XM and now the Commission is trying to interfere with this free-market principle as well; seeking instead to prevent Sirius XM from receiving revenue they have earned and deserve. Consumers support allowing Sirius XM to increase revenues. The Commission's efforts to align incumbent licensees in opposition to satellite radio will only serve to marginalize the integrity of the Commission and ultimately lead to enforcement actions against these illegal activities.

**The National Broadband Plan Is A Backdoor Bailout For The WCS Coalition**

While the WCS Coalition falsely accuses Sirius XM of "advocating a wide range of rules and policies that will severely limit, if not effectively preclude the offering of broadband services over WCS as envisioned by the National Broadband Plan", what the WCS Coalition fails to address is the fact that the 30MHz of WCS spectrum was auctioned with the foreknowledge of limitations and restrictions prohibiting interference across spectrum boundaries, and buildout requirements were imposed to satisfy the public interest and prevent the warehousing of spectrum. The National Broadband Plan wasn't adopted at the time these licenses were issued, and adjacent bandwidth licensed to competitors was already deployed well before the National Broadband Plan was adopted. The constraints inherent to the spectrum allocated to WCS still exist, regardless of what the recently adopted National Broadband Plan objectives may be. And just because the Commission has adopted a National Broadband Plan after the buildout of satellite radio infrastructure was complete, doesn't mean the WCS Coalition has the license to consistently cause signal interruption to the adjacent spectrum belonging to a competitor. Its unconscionable for the WCS Coalition to cause interference on the SDARS spectrum for the purpose of causing consumers to reject satellite radio as an alternative to future products and services deployed by the WCS Coalition, yet this appears to be exactly what the WCS Coalition's strategy is.

There are reasons why spectrum warehousing is inconsistent with sound telecommunication policy, and why regulators should enforce the Communications Act to protect the public interest. One of those reasons is, those who violate the public interest shouldn't be rewarded with regulatory bailouts at the expense of their competitors. The WCS spectrum was allocated with certain considerations in mind—proximity to adjacent spectrum, the potential for interference, the competitive landscape and usage capabilities, among other things. The National Broadband Plan wasn't designed to ignore these considerations as the WCS Coalition would have the Commission believe.

### **Policy Violators Don't Deserve Spectrum Licenses**

What the WCS Coalition has demonstrated is they have no interest in cooperating with legitimate policy objectives, but instead seek to maximize profit by persuading regulators to continuously modify rules in pursuit of unfair competitive advantage; even when it causes undue harm to competitors.

Sirius XM has conscientiously asserted their concern over how the Commission is regulating the public's airwaves and how those policies and rulemaking decisions affect satellite radio service. Sirius XM seeks to protect consumers already in the marketplace; this is a good thing. This is the way responsible corporate executives overseeing multi-billion dollar infrastructure buildouts behave, and it seems the WCS Coalition can't comprehend this simple concept. Are these the type of business leaders the Commission issues licenses to? Since the WCS Coalition refused to substantially invest in their infrastructure while they warehoused their WCS spectrum for fourteen years, they probably don't understand these simple principles—or in the alternative, they do understand them, but again seek to mislead the Commission into believing it is Sirius XM that is trying to interfere with the WCS Coalition's operations while ignoring the reality that Sirius XM is being responsible by protecting their investment in infrastructure and thereby protecting consumers.

Despite the WCS Coalition's denial, it is them interfering with Sirius XM's operations by trying to mislead the Commission into believing the price cap shouldn't be eliminated.

### **IV. CONCLUSION**

It's OK with me if satellite radio raises their subscription prices; they deserve to increase revenues so they can pay their debts and consumers can continue enjoying future product improvements and service enhancements. It is competitors like the WCS Coalition (and many others), and the regulatory miscreants like many of those at the Commission, that have demonstrated throughout the satellite radio docket that they are the ones who cannot be trusted. The Commission is guilty of creating an anticompetitive marketplace complete with incumbent licensees being granted unjustifiably favorable conditions, and Sirius XM being faced with unconscionable regulatory burden. The Commission is a captured regulator, violating the public interest far more frequently than should be tolerated by a free-market capitalist society.

The WCS Coalition is behaving like a subversive enterprise, seeking state sponsored protections from unencumbered satellite radio competition and enlisting the support of the Commission to cause undue financial harm to competitors, for profit. The Commission should have revoked the WCS licenses

long ago, and still should today. Enterprises like the WCS Coalition are destroying the fabric of the United States of America by exploiting regulatory inequities from complicit regulators, warehousing spectrum in violation of their license buildout obligations, applying new technologies to spectrum auctioned under parameters unaccommodating to these newer technologies, and misleading regulators in pursuit of ill-gotten gains.

General Petraeus recently ordered a probe into allegations U.S. Congress members were the target of a U.S. military operation designed to manipulate Congressional leaders into supporting more troops and money for the war in Afghanistan (see Rolling Stone article, 'Another Runaway General: Army Deploys Psy-Ops on U.S. Senators', February 2011). It is readily apparent these same tactics developed by the military for fighting wars abroad are now being applied to regulators here at home, and have been for some time. Specifically, using misinformation to influence regulators at the Commission (and other regulators like the SEC) for unjust and favorable rulings, planting erroneous ideas in regulator's heads that don't conform with sound telecommunication policy and employing anti-capitalist price caps on companies with a primary revenue stream derived from subscription fees; all of which frustrate legitimate regulatory proceedings. Let the Commission impose a \$12.95/month price cap on subscription services of AT&T, Verizon and Comcast and watch how fast this nonsense is stopped by Congress. The DOJ should investigate how the WCS Coalition discovered and why they employed a disinformation campaign in the Sirius XM docket, and who gave them the idea to apply these military tactics used against enemies abroad to regulators here at home. Doesn't AT&T provide communication contracts to the military in Afghanistan?

Followers of the satellite radio saga have known for a long time that all this merger opposition and lingering regulatory fiasco is the work of unmitigated profiteers who are destroying the fabric of this country. These profiteers enlist the support of complicit regulators who are willingly manipulated into believing a bunch of nonsense about why the satellite radio merger shouldn't be approved, or why price caps should be imposed, or why some consumer in Florida should file a class action lawsuit since the company charges two dollars for royalty payments after the Commission imposed a price cap on subscription plans. All of these problems could be avoided if the Commission stopped playing fast and loose with telecommunication policy by allowing organizations like the NAB during the merger review and the WCS Coalition during the price cap review (and many others in between), from improperly influencing the Commission with their nonsense. Instead, the satellite radio company and their investors continue financing undue burdens caused by what ultimately is an incompetent regulator in the pocket of industry. Enough already.

The Commission and their fellow iron triangle members need to have their

houses cleaned the same way Bernie Madoff had his house cleaned. This country is in deep trouble if the Commission doesn't get their act together and stop pandering to the too-big-to-fail telecommunication companies and start allowing other competitors to compete on a fair and level playing field with incumbent licensees. Eliminate the price caps, cease and desist with harassing satellite radio, terminate the illegitimate oversight, and restore integrity to the Commission so consumers and shareholders can enjoy the benefits associated with free markets again. Maybe then the people will have a reason to trust their government.